



01-10-05

DAC
9200/3673

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|--------------------------------|---|-------------------------------|
| In Re Application of: |) | Art Unit: 3673 |
| BYRON YOUNG |) | |
| |) | Examiner: Alexander Grosz |
| |) | |
| Serial No.: 10/028,853 |) | |
| |) | |
| Filing Date: December 21, 2001 |) | Mailing Date: January 7, 2005 |
| |) | |
| Title: Bag/Bed Assembly |) | |

**RENEWED PETITION TO WITHDRAW THE HOLDING OF
ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION**

MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully petitions the Assistant Commissioner for Patents to withdraw the abandonment of the above-identified patent application. In support of this petition, the Applicant states as follows:

1. Applicant filed his application for Letters Patent on December 21, 2001.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being transmitted via Express Mail, addressed to: MAIL STOP PETITION, Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia, 22313-1450, on January 7, 2005. The Honorable Commissioner of Patents and Trademarks is requested to grant this paper that date as its filing date.


Gary K. Price (#45,024)

2. By correspondence dated May 26, 2004, Applicant's practitioner received Notice of Abandonment for failure to timely pay the issue fee and publication fee.

3. On or about June 10, 2004, Applicant filed his Petition to Withdraw the Holding of Abandonment based on the fact that neither Applicant nor Applicant's practitioner received a Notice of Allowance advising the issue fee and publication fee was due.

4. By correspondence with mailing date of October 7, 2004, Applicant's Petition to Withdraw the Holding of Abandonment was dismissed for failure to adequately establish requirements that a search of the file jacket and all docket records of the firm of Bowers Harrison, LLP was conducted, and not including a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. Applicant then filed his Renewed Petition to Withdraw with Holding of Abandonment.

5. By correspondence with mailing date of December 22, 2004, Applicant's said Renewed Petition was dismissed (the "Decision").

6. Applicant files the present Renewed Petition within two (2) months from the mail date of the Decision.

7. As stated in Applicant's Petition to Withdraw the Holding of Abandonment filed on or about June 10, 2004 and Petition to Withdraw the

Holding of Abandonment, neither Applicant or Applicant's practitioner received the Notice of Allowance, in fact, a review of Applicant's practitioner's files shows that no correspondence was received from the United States Patent and Trademark Office ("USPTO") (except for the Notice of Abandonment) following the filing of Applicant's Amendment and Response dated October 17, 2003, responding to an Office action dated July 21, 2003.

8. Applicant's practitioner is the only attorney in the firm of Bowers Harrison, LLP that is registered to practice before the USPTO in patent matters, and Applicant's practitioner's docket system is maintained separately from the other attorneys at Bowers Harrison, LLP.

9. Applicant's practitioner has reviewed his files, and has searched the file jacket and docket records and has not located a copy of the Notice of Allowance which was said to have been previously forwarded to Applicant's practitioner, and further, has found no entry or reference to a receipt of the Notice of Allowance which was said to have been forwarded to Applicant's practitioner.

10. There is in place a business routine for performing the function of receiving, docketing and maintaining Office communications from the USPTO namely as follows: Applicant's practitioner receives and opens all mail correspondence from the USPTO; upon receipt of any communication from the USPTO, the Applicant's practitioner creates a record (the "Record") that

includes reference of receipt of the communication, the projected date when a response if necessary will be prepared, and the date any such response is due.

11. The Record is entered and maintained by Applicant's practitioner in a word processing file that is backed-up nightly. Once a response to an Office action is completed and filed with the USPTO, the date the response was filed with the USPTO is then added to the Record. Once acknowledgement from the USPTO is received by Applicant's practitioner acknowledging that the response has been received by the USPTO, the Record is then deleted by Applicant's practitioner from the word processing file.

12. The subject word processing file maintained by Applicant's practitioner only includes Records for matters that require a response to the USPTO, and for those matters where a response has been filed with the USPTO but Applicant's practitioner has not yet received acknowledgement such as a returned postcard when mailed or a receipt when sent via facsimile, acknowledging that the response has been received by the USPTO.

13. With regard to receiving a Notice of Allowance upon receipt of such Notice, Applicant's practitioner immediately forwards correspondence to the Applicant advising of the Notice and further advising of the issue fee and publication fee due. The Record will then also include the date such correspondence was forwarded to the Applicant.

14. In the instant case, a Notice of Allowance was not received by Applicant's practitioner and therefore no Record made or maintained in the subject word processing file.

15. A current copy of the Records listed on the subject word processing file would only include Records of existing clients where a response remains pending or acknowledgment of receipt of response has not been received from the USPTO.

16. Applicant encloses with this filing a copy of Applicant's practitioner's word processing file printed and labeled for each week during the period of 03/01/2004 thru the week beginning 05/31/2004. In particular, the enclosed record displays those pending applications received and requiring responses during said time period.

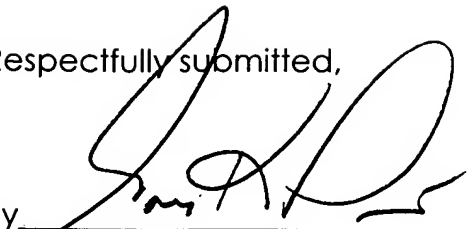
17. The list of Records listed on the subject word processing file does not include a Record for the Applicant, Byron Young.

18. A Notice of Allowance was not received by Applicant's practitioner and therefore a Record was not made as discussed above.

WHEREFORE, Applicant respectfully requests the above-identified application to be withdrawn from abandonment and remail the Notice of Allowance.

The Examiner is invited to telephone the undersigned if there are any questions in regard to the above.

Respectfully submitted,

By _____

Gary K. Price, Esq.
25 N.W. Riverside Drive
P.O. Box 1287
Evansville, IN 47706-1287
Telephone: (812) 426-1231
Facsimile: (812) 464-3676
Attorney for Applicant,
Byron Young

M:\DOCS\PUBLIC\62481\MEMO\286430.wpd
11577.001



| <u>MATTER</u> | <u>ACTION</u> | <u>DATE RECVD</u> | <u>CLIENT LETTR</u> | <u>PROJECTED DATE</u> | <u>RESPONSE DUE DATE</u> | <u>RESPONSE FILED</u> |
|---------------|---------------|-----------------------|-------------------------------|---------------------------|------------------------------|---------------------------|
| Tony Cain | OA | 12/18/03 | 12/24/03 | 2/01/04 | 3/18/04 | 3/02/04 |
| M.Spells | OA | 1/09/04 | CONF. | | 4/09/04 | |
| M.Byrd | OA | 1/21/04 | waiting client's instructions | | | |
| J.Volz | OA | 2/05/04 | 2/13/04 | 4/01/04 | 5/05/04 | |

Week of 3/1/04

| <u>MATTER</u> | <u>ACTION</u> | <u>DATE RECVD</u> | <u>CLIENT LETTR</u> | <u>PROJECTED DATE</u> | <u>RESPONSE DUE DATE</u> | <u>RESPONSE FILED</u> |
|---------------|---------------|-----------------------|-------------------------------|---------------------------|------------------------------|---------------------------|
| Tony Cain | OA | 12/18/03 | 12/24/03 | 2/01/04 | 3/18/04 | 3/02/04 |
| M.Spells | OA | 1/09/04 | CONF. | | 4/09/04 | |
| M.Byrd | OA | 1/21/04 | waiting client's instructions | | | |
| J.Volz | OA | 2/05/04 | 2/13/04 | 4/01/04 | 5/05/04 | |

Week of 3/8/04

| <u>MATTER</u> | <u>ACTION</u> | <u>DATE RECVD</u> | <u>CLIENT LETTR</u> | <u>PROJECTED DATE</u> | <u>RESPONSE DUE DATE</u> | <u>RESPONSE FILED</u> |
|---------------|---------------|-----------------------|-------------------------------|---------------------------|------------------------------|---------------------------|
| M.Spells | OA | 1/09/04 | CONF. | | 4/09/04 | |
| M.Byrd | OA | 1/21/04 | waiting client's instructions | | | |
| J.Volz | OA | 2/05/04 | 2/13/04 | 4/01/04 | 5/05/04 | |
| S.Heichelbach | OA | 3/19/04 | | | 6/19/04 | |

Week of 3/15/04

| <u>MATTER</u> | <u>ACTION</u> | <u>DATE RECVD</u> | <u>CLIENT LETTR</u> | <u>PROJECTED DATE</u> | <u>RESPONSE DUE DATE</u> | <u>RESPONSE FILED</u> |
|---------------|---------------|-----------------------|---------------------------|---------------------------|------------------------------|---------------------------|
| M.Spells | OA | 1/09/04 | CONF. | | 4/09/04 | |
| M.Byrd | OA | 1/21/04 | order prosecution history | | | |
| J.Volz | OA | 2/05/04 | 2/13/04 | 4/01/04 | 5/05/04 | |
| S.Heichelbach | OA | 3/19/04 | 3/24/04 | 5/1/04 | 6/19/04 | |
| S.Little | Allowance | 3/24/04 | 3/24/04 | | 6/24/04 | |

Week of 3/22/04

| <u>MATTER</u> | <u>ACTION</u> | <u>DATE RECVD</u> | <u>CLIENT LETTR</u> | <u>PROJECTED DATE</u> | <u>RESPONSE DUE DATE</u> | <u>RESPONSE FILED</u> |
|---------------|---------------|-----------------------|---------------------------------|---------------------------|------------------------------|---------------------------|
| M.Spells | OA | 1/09/04 | CONF. | | 4/09/04 | |
| M.Byrd | OA | 1/21/04 | waiting for prosecution history | | | |
| J.Volz | OA | 2/05/04 | 2/13/04 | 4/01/04 | 5/05/04 | |
| S.Heichelbach | OA | 3/19/04 | 3/24/04 | 5/1/04 | 6/19/04 | |
| S.Little | Allowance | 3/24/04 | 3/24/04 | | 6/24/04 | |

Week of 3/29/04

| <u>MATTER</u> | <u>ACTION</u> | <u>DATE RECVD</u> | <u>CLIENT LETTR</u> | <u>PROJECTED DATE</u> | <u>RESPONSE DUE DATE</u> | <u>RESPONSE FILED</u> |
|---------------|---------------|-----------------------|---------------------------------|---------------------------|------------------------------|---------------------------|
| M.Spells | OA | 1/09/04 | CONF. | | 4/09/04 | 4/09/04 |
| M.Byrd | OA | 1/21/04 | waiting for prosecution history | | | |
| J.Volz | OA | 2/05/04 | 2/13/04 | 4/01/04 | 5/05/04 | |
| S.Heichelbach | OA | 3/19/04 | 3/24/04 | 5/1/04 | 6/19/04 | |
| S.Little | Allowance | 3/24/04 | 3/24/04 | | 6/24/04 | 4/06/04 |

Week of 4/5/04

| <u>MATTER</u> | <u>ACTION</u> | <u>DATE RECVD</u> | <u>CLIENT LETTR</u> | <u>PROJECTED DATE</u> | <u>RESPONSE DUE DATE</u> | <u>RESPONSE FILED</u> |
|---------------|---------------|-----------------------|---------------------------------|---------------------------|------------------------------|---------------------------|
| M.Spells | OA | 1/09/04 | CONF. | | 4/09/04 | 4/09/04 |
| M.Byrd | OA | 1/21/04 | waiting for prosecution history | | | |
| J.Volz | OA | 2/05/04 | 2/13/04 | 4/01/04 | 5/05/04 | |
| S.Heichelbach | OA | 3/19/04 | 3/24/04 | 5/1/04 | 6/19/04 | |
| S.Little | Allowance | 3/24/04 | 3/24/04 | | 6/24/04 | 4/06/04 |

Week of 4/12/04

| <u>MATTER</u> | <u>ACTION</u> | <u>DATE</u> <u>RECVD</u> | <u>CLIENT</u> <u>LETTR</u> | <u>PROJECTED</u> <u>DATE</u> | <u>RESPONSE</u> <u>DUE DATE</u> | <u>RESPONSE</u> <u>FILED</u> |
|---------------|---------------|-----------------------------|-------------------------------|---------------------------------|------------------------------------|---------------------------------|
| M.Byrd | OA | 1/21/04 | (prosecution history) | | | |
| J.Volz | OA | 2/05/04 | 2/13/04 | 4/01/04 | 5/05/04 | |
| S.Heichelbach | OA | 3/19/04 | 3/24/04 | 5/1/04 | 6/19/04 | |
| P.Hart | OA | 4/13/04 | | | 7/13/04 | |

Week of 4/19/04

| <u>MATTER</u> | <u>ACTION</u> | <u>DATE</u> <u>RECVD</u> | <u>CLIENT</u> <u>LETTR</u> | <u>PROJECTED</u> <u>DATE</u> | <u>RESPONSE</u> <u>DUE DATE</u> | <u>RESPONSE</u> <u>FILED</u> |
|---------------|---------------|-----------------------------|-------------------------------|---------------------------------|------------------------------------|---------------------------------|
| M.Byrd | OA | 1/21/04 | (prosecution history) | | | |
| J.Volz | OA | 2/05/04 | 2/13/04 | 4/01/04 | 5/05/04 | |
| S.Heichelbach | OA | 3/19/04 | 3/24/04 | 5/1/04 | 6/19/04 | |
| P.Hart | OA | 4/13/04 | | | 7/13/04 | |

Week of 4/26/04

| <u>MATTER</u> | <u>ACTION</u> | <u>DATE RECVD</u> | <u>CLIENT LETTR</u> | <u>PROJECTED DATE</u> | <u>RESPONSE DUE DATE</u> | <u>RESPONSE FILED</u> |
|---------------|---------------|-----------------------|-------------------------|---------------------------|------------------------------|---------------------------|
| M.Byrd | OA | 1/21/04 | preparing response | | | |
| J.Volz | OA | 2/05/04 | 2/13/04 | 4/01/04 | 5/05/04 | 5/05/04 |
| S.Heichelbach | OA | 3/19/04 | 3/24/04 | 5/1/04 | 6/19/04 | 5/03/04 |
| P.Hart | OA | 4/13/04 | 5/03/04 | 6/01/04 | 7/13/04 | |

Week of 5/3/04

| <u>MATTER</u> | <u>ACTION</u> | <u>DATE RECVD</u> | <u>CLIENT LETTR</u> | <u>PROJECTED DATE</u> | <u>RESPONSE DUE DATE</u> | <u>RESPONSE FILED</u> |
|---------------|---------------|-----------------------|-------------------------|---------------------------|------------------------------|---------------------------|
| M.Byrd | OA | 1/21/04 | 5/12/04 | | | |
| J.Volz | OA | 2/05/04 | 2/13/04 | 4/01/04 | 5/05/04 | 5/05/04 |
| S.Heichelbach | OA | 3/19/04 | 3/24/04 | 5/1/04 | 6/19/04 | 5/03/04 |
| P.Hart | OA | 4/13/04 | 5/03/04 | 6/01/04 | 7/13/04 | |
| T.Sowders | OA | 5/06/04 | 5/12/04 | 7/01/04 | 8/06/04 | |
| M.Spells | OA | 5/03/04 | CONF. | 5/17/04 | 8/03/04 | |

Week of 5/10/04

| <u>MATTER</u> | <u>ACTION</u> | <u>DATE RECVD</u> | <u>CLIENT LETTR</u> | <u>PROJECTED DATE</u> | <u>RESPONSE DUE DATE</u> | <u>RESPONSE FILED</u> |
|---------------|---------------|-----------------------|-------------------------|---------------------------|------------------------------|---------------------------|
| M.Byrd | OA | 1/21/04 | 5/12/04 | | | |
| P.Hart | OA | 4/13/04 | 5/03/04 | 6/01/04 | 7/13/04 | |
| T.Sowders | OA | 5/06/04 | 5/12/04 | 7/01/04 | 8/06/04 | |
| M.Spells | OA | 5/03/04 | CONF. | 5/17/04 | 8/03/04 | |
| S. Lucas | OA | 5/12/04 | 5/21/04 | 7/01/04 | 8/12/04 | |

Week of 5/17/04

| <u>MATTER</u> | <u>ACTION</u> | <u>DATE RECVD</u> | <u>CLIENT LETTR</u> | <u>PROJECTED DATE</u> | <u>RESPONSE DUE DATE</u> | <u>RESPONSE FILED</u> |
|---------------|---------------|-----------------------|-------------------------|---------------------------|------------------------------|---------------------------|
| M.Byrd | OA | 1/21/04 | 5/12/04 | | | |
| P.Hart | OA | 4/13/04 | 5/03/04 | 6/01/04 | 7/13/04 | |
| T.Sowders | OA | 5/06/04 | 5/12/04 | 7/01/04 | 8/06/04 | |
| M.Spells | OA | 5/03/04 | CONF. | 5/17/04 | 8/03/04 | |
| S. Lucas | OA | 5/12/04 | 5/21/04 | 7/01/04 | 8/12/04 | |

Week of 5/24/04

| <u>MATTER</u> | <u>ACTION</u> | <u>DATE RECVD</u> | <u>CLIENT LETTR</u> | <u>PROJECTED DATE</u> | <u>RESPONSE DUE DATE</u> | <u>RESPONSE FILED</u> |
|---------------|---------------|-----------------------|-------------------------|---------------------------|------------------------------|---------------------------|
| M.Byrd | OA | 1/21/04 | 5/12/04 | | | |
| P.Hart | OA | 4/13/04 | 5/03/04 | 6/01/04 | 7/13/04 | |
| T.Sowders | OA | 5/06/04 | 5/12/04 | 7/01/04 | 8/06/04 | |
| M.Spells | OA | 5/03/04 | CONF. | 5/17/04 | 8/03/04 | |
| S. Lucas | OA | 5/12/04 | 5/21/04 | 7/01/04 | 8/12/04 | |

Week of 5/31/04